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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,917	03/10/2004	Donald G. Quick	RM.QD4	3344

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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/797,917

Applicant(s)

QUICK, DONALD G.

Examiner

Jon A Szumny

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This is the first office action for application number 10/797,917, Temporary Trash Holder, filed on March 10, 2004.

*Priority*

Domestic priority of application number 60/453,399 filed on March 10, 2003 is acknowledged.

*Claim Objections*

Claim 1 is objected to because of the following informalities:

In line 7, "same" should be ~~the same~~.

Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the trash bag" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Further, regarding claims 1, 8, 10, 12 and 13, it is not completely clear if the applicant is intending to *positively* or *functionally* claim the "trash bag," "back board member" and the

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“stanchion support member”. It appears the applicant is functionally claiming the “trash bag,” the “back board member” and the “stanchion support member” in claims 1, 7, 9, and 11 (“for supporting the trash bag...” and “adapted to couple...”), but then the combination is claimed later on in claims 1, 8, 10, 12 and 13 (“a marginal portion of the trash bag being interposed...” and “...engages said coupler portion and the back board member/stanchion support member..” and “wherein said stanchion support member is provided...”). The applicant must make it clear whether the “back board member” and the “stanchion support member” are recited functionally or positively. For the purposes of this office action, the Examiner will assume the “back board member” and the “stanchion support member” are claimed merely functionally. Therefore, for instance, claim 13 is an entirely functional claim, and the support structure as cited by Examiner (below) clearly can perform the function of claim 13.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,588,622 to Gordon, Sr.

Gordon, Sr. '622 discloses a bag support structure (figure 1) comprising an annular member (20), a resilient annular clamp (30) arranged to surround the annular member circumferentially, and a tension latch arrangement (50,60) for applying a tension force to the resilient annular clamp and urging the same against the annular member, wherein the tension

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latch arrangement comprises a resilient latching element (60), wherein the annular member and the resilient annular clamp are fixedly coupled to one another at a predetermined fixation point (near 40), wherein the tension latching arrangement is disposed in the vicinity of the predetermined fixation point, wherein there is further provided a support arrangement (10) coupled to the annular member and the resilient annular clamp in the vicinity of the predetermined fixation point.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 5,826,838 to Forbes in view of Gordon, Sr. '622.

Forbes '838 teaches a bag support structure (figure 1) comprising an annular member (17), a support arrangement (18) comprising a coupler portion (19) coupled to the annular member, a locking arrangement (16, generally) comprising a locking element (21). However, Forbes '838 fails specifically teach the bag support structure to have a resilient annular clamp arranged to surround the annular member circumferentially, and a tension latch arrangement for applying a tension force to the resilient annular clamp and urging the same against the annular member, wherein the latch arrangement comprises a resilient latching element, wherein the annular member and clamp are fixedly coupled to one another at a predetermined fixation point,

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wherein the latching arrangement is disposed in the vicinity of the point, wherein the support arrangement is coupled to the annular member and the clamp in the vicinity of the point.

Gordon, Sr. '622 teaches the previously described bag support member including an annular member, a resilient annular clamp and a tension latch arrangement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the bag support structure of Forbes '838 so as to have a resilient annular clamp arranged to surround the annular member circumferentially, and a tension latch arrangement for applying a tension force to the resilient annular clamp and urging the same against the annular member, wherein the latch arrangement comprises a resilient latching element, wherein the annular member and clamp are fixedly coupled to one another at a predetermined fixation point, wherein the latching arrangement is disposed in the vicinity of the point, wherein the support arrangement is coupled to the annular member and the clamp in the vicinity of the point as in Gordon, Sr. '622 so as to provide for a superior arrangement for securely but releasably mounting a bag on the support structure.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Abel '890, Smith et al. '696, Kelrick '973, Koger '041, Paetzold '489, Andersson '726, Ross et al. '419, Wong '596 and Dancy '959 teach various bag supporting structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

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The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is

(703) 308-1113.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a large, sweeping flourish extending to the right.

Jon Szumny  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
November 5, 2004